

Oct 31, 2019

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SEAN F. MCAVOY, CLERK

MARIN JESUS RIVERA, JR.,

No. 4:19-cv-05185-SMJ

Petitioner,

**ORDER DISMISSING HABEAS
CORPUS PETITION WITHOUT
PREJUDICE**

v.

TOM CROSKREY,

Respondent.

By order filed August 26, 2019, the Court advised Petitioner of the deficiencies of his habeas corpus petition and directed him to amend it within sixty days to demonstrate that he has exhausted his state court remedies. ECF No. 7. On October 21, 2019, Petitioner filed a motion for an extension of time, ECF No. 9, affirmatively asserting that he has not exhausted a personal restraint petition in the state courts and seeking additional time to do so.

It plainly appears from the petition and accompanying documents that Petitioner did not exhaust his state court remedies. Therefore, the petition will be dismissed. *See Peterson v. Lampert*, 319 F.3d 1153, 1156 (9th Cir. 2003); *Vang v. Nevada*, 329 F.3d 1069, 1075 (9th Cir. 2003). Plaintiff has presented no basis for this Court's intervention in pending state court proceedings. *See Perez v. Ledesma*,

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1 401 U.S. 82, 85 (1971).

2 Therefore, **IT IS HEREBY ORDERED** that the petition, ECF No. 1, is
3 **DISMISSED WITHOUT PREJUDICE** for failure to exhaust state court
4 remedies. All pending motions are **DENIED AS MOOT**.

5 **IT IS SO ORDERED.** The Clerk's Office is directed to enter this Order,
6 enter judgment, provide copies to Petitioner, and close the file. The Court certifies
7 that, pursuant to 28 U.S.C. § 1915(a)(3), an appeal from this decision could not be
8 taken in good faith and there is no basis upon which to issue a certificate of
9 appealability. *See* 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). A certificate of
10 appealability is therefore **DENIED**.

11 **DATED** this 31st day of October 2019.

12 
13 SALVADOR MENDEZA, JR.
14 United States District Judge